

REMARKS

In the Office Action, the Examiner rejected claims 75-87 and 95-100, objected to claims 77 and 78, and withdrew claims 88-94 and 101 from consideration. By this paper, the Applicants amended claims 75, 78, 79, 83, 85, 87, 88, 95, and 97-99, cancelled claims 76, 77, 80, and 100, and added new claims 102-113 to clarify certain claim features. In view of the foregoing amendments and the following remarks, Applicants respectfully request allowance of all pending claims.

Election/Restriction

In the Office Action, the Examiner withdrew claims 88-94 and 101 as being drawn to nonelected species in Fig. 12. The Applicants respectfully traverse. Independent claim 88 is clearly *generic to all species* set forth in the restriction requirement mailed on July 24, 2003. Independent claim 88 is not limited to the species of Fig. 12. Similarly, dependent claims 90-94 and 101 are generic to all species set forth in the previous restriction requirement. For these reasons, the Applicants respectfully request that the Examiner reinstate and examine these claims.

Claim Objections

In the Office Action, the Examiner objected to claims 77 and 78. As suggested by the Examiner, Applicants amended the claims to correct the typographical error. In view of these amendments, Applicants respectfully request the Examiner withdraw the objection to the claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 83-87, 95, and 97-100 under 35 U.S.C. § 102(b) as anticipated by Gaines et al. (U.S. Patent No. 4,189,249, hereinafter “Gaines”), claims 75-79, 81-87 and 95-99 under 35 U.S.C. § 102(b) as being anticipated by Beach et al. (U.S. Patent No. 3,423,104, hereinafter “Beach”). Applicants respectfully traverse these rejections.

Legal Precedent

First, the pending claims must be given an interpretation that is reasonable and consistent with the *specification*. *See In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969) (emphasis added); *see also In re Morris*, 127 F.3d 1048, 1054-55, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); *see also M.P.E.P. §§ 608.01(o)* and 2111. Indeed, the specification is “the primary basis for construing the claims.” *See Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (*en banc*). One should rely *heavily* on the written description for guidance as to the meaning of the claims. *See id.*

Second, interpretation of the claims must also be consistent with the interpretation that *one of ordinary skill in the art* would reach. *See In re Cortright*, 165 F.3d 1353, 1359, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); M.P.E.P. § 2111. “The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation.” *See Collegenet, Inc. v. ApplyYourself, Inc.*, No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (quoting *Phillips*, No. 03-1269, -1286, at 16). The Federal Circuit has made clear that derivation of a claim term must be based on “usage in the ordinary and accustomed meaning of the words amongst artisans of ordinary skill in the relevant art.” *See id.*

Third, anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Applicants need only point to a single element not found in the cited reference to

demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention “*in as complete detail as contained in the ... claim*” to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Claim Features of Independent Claim 75 Omitted from Beach

The Applicants submit that Beach does not teach or suggest every element recited by amended independent claim 75. For example, independent claim 75 recites two joints coupled to an automotive linkage “wherein the first joint member comprises a ball joint and the second joint member comprises a female joint” (Emphasis added).

In contrast, Beach teaches attaching a yoke 12 to each end of the axle 10. See Beach, col. 1, line 59. In other words, the axle 10 has the same joint at both ends. First, if the yoke 12 is hypothetically interpreted as a ball joint, then Beach is clearly missing a female joint. Second, if the yoke 12 is hypothetically interpreted as a female joint, then Beach is clearly missing a ball joint. As a result, Beach does not teach or suggest “the first joint member comprises a ball joint and the second joint member comprises a female joint,” as recited by claim 75.

In view of this deficiency, among others, Beach cannot anticipate independent claim 75 and its dependent claims.

Claim Features of Independent Claim 83 Omitted from Beach and Gaines

Independent claim 83 recites, *inter alia*, “a family of joints each comprising a modular attachment portion configured to mate with the uniform cross-section at the first or second end of the elongated automotive linkage, wherein the family of joints comprises a rotatable joint and a non-rotatable joint.” (Emphasis added).

In contrast, Beach fails to teach or suggest a family of joints comprising both rotatable and non-rotatable joints. As discussed above, Beach discloses attaching the same yoke 12 to both ends of an axle 10. *See Beach, col. 1, line 59; Figures 2-5.* First, if the yoke 12 is hypothetically interpreted as a rotatable joint, then Beach is clearly missing a non-rotatable joint. Second, if the yoke 12 is hypothetically interpreted as a non-rotatable joint, then Beach is clearly missing a rotatable joint. As a result, Beach does not teach or suggest “a rotatable joint and a non-rotatable joint,” as recited by claim 83.

Similarly, Gaines fails to teach or suggest a family of joints comprising both rotatable and non-rotatable joints. Instead, Gaines discloses attaching two ball joints 10 and 16 to a connector tube 20. *See Gaines, col. 2, lines 1-11.* Gaines does not disclose or contemplate using a non-rotatable joint as recited by claim 83. As a result, Gaines does not teach or suggest “a rotatable joint and a non-rotatable joint,” as recited by claim 83.

In view of these deficiencies, among others, Beach and Gaines cannot anticipate independent claim 83 and its dependent claims.

Claim Features of Independent Claim 88 Omitted from Beach and Gaines

As discussed above, the Applicants respectfully request reinstatement and consideration of independent claim 88 and its dependent claims. Again, independent claim 88 is generic and should not be withdrawn. The Applicants submit neither Beach nor Gaines discloses each and every element recited by the claim. For example, independent claim 88 recites “a plurality of joints having different geometries and joint mechanisms.” (Emphasis added). In addition, claim 88 recites “the plurality of joints comprise a metallic joint structure, a non-metallic joint structure, a rotatable joint structure, a non-rotatable joint structure, and one or more combinations thereof.”

As discussed above, Beach and Gaines both disclose a pair of the same joint mechanisms, rather than different joint mechanisms. Beach discloses attaching the same

yoke 12 to both ends of an axle 10. *See* Beach, col. 1, line 59; Figures 2-5. Gaines discloses attaching two ball joints 10 and 16 to a connector tube 20. *See* Gaines, col. 2, lines 1-11. Accordingly, neither reference teaches or suggests using a plurality of joints that has different joint mechanisms, as recited by independent claim 88.

In view of these deficiencies, among others, Beach and Gaines cannot anticipate independent claim 88 and its dependent claims.

Claim Features of Independent Claim 95 Omitted from Beach and Gaines

Independent claim 95 recites a “family of joints comprises a ball joint, a polygonal receptacle joint, a generally circular joint, and a bushing and grommet joint.” (Emphasis added).

In contrast, Beach and Gaines both teach only one type of joint. Even if the joints disclosed by Beach and Gaines could hypothetically be interpreted as one of the claimed joints, Beach and Gaines would still lack the other claimed joints. Again, Beach discloses attaching the same yoke 12 to both ends of an axle 10. *See* Beach, col. 1, line 59; Figures 2-5. Gaines discloses attaching two ball joints 10 and 16 to a connector tube 20. *See* Gaines, col. 2, lines 1-11. Because the references fail to disclose every limitation of amended claim 95, neither reference can anticipate the claim.

In view of these deficiencies, among others, Beach and Gaines cannot anticipate independent claim 95 and its dependent claims.

Claim Features of Independent Claim 99 Omitted from Beach and Gaines

Independent claim 99 recites first and second joints coupled to a linkage “wherein the first joint comprises a plastic ball joint and the second joint comprises a metallic non-rotatable joint.” (Emphasis added).

Beach fails to teach or suggest both a plastic ball joint and a metallic non-rotatable joint, as recited by claim 99. Again, Beach discloses attaching the same yoke 12 to both ends of an axle 10. *See Beach*, col. 1, line 59; Figures 2-5. Beach does not teach or suggest that the yoke 12 could hypothetically be a ball joint, much less a plastic ball joint. In addition, Beach clearly fails to disclose a non-rotatable joint, much less a metallic non-rotatable joint.

Similarly, Gaines fails to teach or suggest both a plastic ball joint and a metallic non-rotatable joint, as recited by claim 99. Gaines discloses attaching two ball joints 10 and 16 to a connector tube 20. *See Gaines*, col. 2, lines 1-11. Although Gaines discloses ball joints 10 and 16, Gaines does not teach or suggest that the ball joints 10 and 16 could hypothetically be plastic ball joints. In addition, Gaines clearly fails to disclose a non-rotatable joint, much less a metallic non-rotatable joint.

In view of these deficiencies, among others, Beach and Gaines cannot anticipate independent claim 99 and its dependent claims. For at least these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 102.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 75-82 and 96 under 35 U.S.C. § 103(a) as being unpatentable over Gaines in view of Beach. The Applicants respectfully traverse this rejection.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed.

Cir. 1984). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). Moreover, a statement that the proposed modification would have been “well within the ordinary skill of the art” based on individual knowledge of the claimed elements cannot be relied upon to establish a *prima facie* case of obviousness without some *objective reason to combine* the teachings of the references. *Ex parte Levengood*, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993); *In re Kotzab*, 217 F.3d 1365, 1371, 55 U.S.P.Q.2d. 1313, 1318 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d. 1161 (Fed. Cir. 1999).

Claim Features Omitted from Beach and Gaines

Turning to the claims, independent claim 75 recites two joints coupled to an automotive linkage “wherein the first joint member comprises a ball joint and the second joint member comprises a female joint.” (Emphasis added). Independent claim 95 recites “the family of linkage joints comprises a ball joint, a polygonal receptacle joint, a generally circular joint, and a bushing and grommet joint.”

Beach and Gaines, taken alone or in hypothetical combination, do not teach or suggest different joints such as the specific joints recited above. Again, Beach discloses attaching the same yoke 12 to both ends of an axle 10. *See* Beach, col. 1, line 59; Figures 2-5. Similarly, Gaines discloses attaching two ball joints 10 and 16 to a connector tube 20. *See* Gaines, col. 2, lines 1-11. As a result, Beach does not obviate the deficiencies of

Gaines, and vice versa. In view of these deficiencies, among others, Beach and Gaines, taken alone or in hypothetical combination, cannot render obvious the current independent claims 75 and 95 and their dependent claims.

For these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

New Claims

As noted above, the Applicants added new claims 102-113. These claims do not add any new matter and are believed to be in condition for allowance. Neither Beach nor Gaines teaches or suggests the features recited in these claims. Accordingly, Applicants respectfully request allowance of claims 102-113.

Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner wishes to resolve any issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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